



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/655,792 09/06/00 BROWNE

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MMC2/1004

BERNARD H BROWNE JR
240 SAND KEY ESTATES DRIVE # 68
CLEARWATER FL 33767-2932

EXAMINER

WITKOWSKI, S

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

10/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/655792

Applicant(s)

Browne

Examiner

Witkowski

Group Art Unit

2837

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5-29-01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4, 11, 12 and 16 is/are rejected.
- ☒ Claim(s) 5-10, 13-15 & 17 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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1. The substitute specification filed May 29, 2001 has been entered.
2. Claims 5-10, 13-15 and 17 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.
3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-4, 11, 12 and 16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In particular, the material added in the specification and drawings regarding figures 1, 3A, 4, 5, 5A, 5B, 5C, 6, 8 and 9 are not supported by the original disclosure. There is no antecedent support in the original disclosure for this material. Even though this material may be well known in the art, it is still new to this application and thus, constitutes new matter in this application.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1, 3, 4, 11 and 16 are rejected under 35 U.S.C. 102(a) as being fully met by Miyano.

Regarding claim 1, Miyano discloses a musician sub-system, a recording sub-system and a composer sub-system. See in particular, column 3. Computer keyboard 3 provides for selection of various musical instruments (e.g., see column 3, lines 5-12). Regarding claims 3, 4 and 16, Miyano discloses a computer and display to provide editing of music which reads on applicant's composing. Sound board 6 inputs music to the system. Regarding claim 11, additional instruments may be played.

7. Claims 3 and 16 are rejected under 35 U.S.C. 102(b) as being fully met by either of Goode or Farrand.

Each patent discloses a computer system and display containing a musician sub-system, a recording sub-system and a composing sub-system. Music signals are input into the system.

8. Claims 3 and 16 are rejected under 35 U.S.C. 102(e) as being fully met by Eller.

Eller discloses a computer system and display containing a musician sub-system, a recording sub-system and a composing subsystem.

Music signals are input into the system.

9. Claims 2 and 12 are rejected under 35 U.S.C. 102(b) as being fully met by Sato.

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Music signals are input into the system.

9. Claims 2 and 12 are rejected under 35 U.S.C. 102(b) as being fully met by Sato.

Sato discloses a computer system and display containing a musician sub-system, a recording sub-system and a composing sub-system. The tone color control therein provides amplitude and frequency control of harmonics making up the music signals. Music signals are input into the system.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Serial Number: 09/655,792

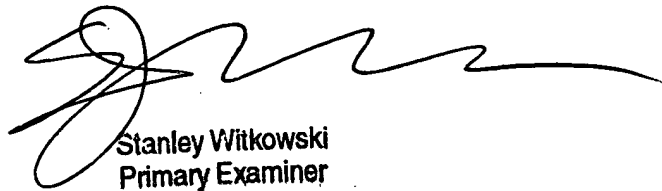
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11. Any inquiry concerning this communication should be directed to Stanley J. Witkowski at telephone number (703) 308-3101.

Witkowski/ds

09/27/01



Stanley Witkowski
Primary Examiner